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Fire Marshals Association of North America

Suggested state fire marshal law of the Fire...

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[1912]

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SUGGESTED

State Fire Marshal Law

OF THE

FIRE MARSHAL ASSOCIATION

OF

NORTH AMERICA

ADOPTED NOVEMBER 7th, 1912

A. LINDBACK
President
MANITOBA

T. M. PURTELL
Sec'y & Treas.
WISCONSIN

Fire Marshal Association of North America.

ALABAMA	LORRIE RICE	*Montgomery*
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A. LINDBACK,	CHAS. A. ELLISON,	T. M. PURTELL,
President.	*Vice-President.*	*Sec'y-Treas.*
MANITOBA.	WEST VIRGINIA.	WISCONSIN.

CB Nov 27, 1908.

The Fire Marshal Association
OF NORTH AMERICA

A STATE FIRE MARSHAL LAW

The accompanying Suggested State Fire Marshal Law embodies provisions which have been shown by actual experience and by application of the various existing laws to be best adapted to the providing of proper and necessary authority to bring about the reduction of the enormous fire waste of our country. Every provision is embodied in the laws of some state or states, and is being enforced by some one of our members, to whom experience has demonstrated the necessity for its inclusion.

Various authorities have placed the proportion of fires which would be readily preventable at ranging from 50 to 75 per cent., and it is everywhere conceded that the needed authority should be given to proper governmental departments to supervise and control the construction, occupation, protection and inspection of all premises as regards fire preventive measures, together with power to arrest and prosecute those who would willfully or maliciously destroy property by fire.

The advantages of uniform laws are being daily shown and this act, guarding as it does both the lives and property of our citizens and founded upon the actual experience of those whose duties are the enforcement of similar acts, is advanced as containing no unnecessary provisions and as containing the authority necessary to attain the desired results.

The support of the office should be borne by the State for the following reasons:

1. Its operations benefit the insured and uninsured.
2. It has already been demonstrated in several states that its maintenance by private interests militates against its effectiveness.
3. It is not the business of insurance companies to prosecute crimes against the Public.

Your cooperation in advocating the introduction and enactment of this law is desired. Additional copies will be mailed you on request, or sent to any one you may suggest.

FOR THE ASSOCIATION,

T. M. PURTELL, Secretary,
Madison, Wis.

COMMITTEE ON LAWS AND REGULATIONS:
J. E. FLORIN, Chairman.
D. B. SHARP.
JAS. R. YOUNG.
J. E. OLIVER.
S. E. CRANS.

AN ACT to Establish the Office of State Fire Marshal, Defining His Powers and Duties, and Providing for His Compensation and the Maintenance of His Office.

The People of the State of.....
represented in Senate and Assembly, do enact as follows:

STATE FIRE MARSHAL.

SECTION 1. Office of State Fire Marshal established; appointment; term; salary.
2. Duties of the State Fire Marshal.
3. Deputies.
4. Assistant officers.
5. Duties of the Assistants to the State Fire Marshal to investigate the cause and origin of all fires.
6. Report of Insurance Companies.
7. Duties of the State Fire Marshal and Assistants to inspect property.
8. Powers of State Fire Marshal, Deputies and Assistants.
9. Records.
10. Annual report.
11. Witnesses.
12. Duties of District Attorney.
13. Compensation of Assistants.
14. Fire Drills.
15. Penalty for Neglect of Official Duties.
16. Penalties.
17. Construction.
18. Repealer.
19. Enabling clause.

SECTION 1. Office of State Fire Marshal Established; Appointment; Term; Salary.—The office of State Fire Marshal is hereby established. The Governor is hereby authorized and empowered to appoint, within thirty days after this Act shall take effect, by and with the consent

of the Senate, a suitable person who shall be a citizen of this State, as State Fire Marshal, who shall hold his office for a term of.....years. The office of the State Fire Marshal shall be located at the Capital in quarters to be provided by the State. He shall receive an annual salary of.....dollars. He shall devote his whole time to the duties of his office. Whenever there shall be a vacancy in the office of State Fire Marshal, the Governor shall fill the vacancy in the manner provided in this section. The State Fire Marshal, his Deputies and Assistants, except such as are named in Section 4 of this Act, shall take and subscribe and file in the office of the Secretary of State the constitutional oath within fifteen days from time of notice of their appointment, respectively.

SECTION 2. It shall be the duty of the State Fire Marshal to enforce all laws and ordinances of the State, and the several counties, cities and political subdivisions thereof, as follows:

1. The prevention of fires;
2. The storage, sale and use of combustibles and explosives.
3. The installation and maintenance of automatic or other fire alarm systems and fire extinguishing equipment;
4. The construction, maintenance and regulation of fire escapes;
5. The means and adequacy of exit, in case of fire, from factories, asylums, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in which numbers of persons work, live, or congregate from time to time for any purpose;
6. The suppression of arson and investigation of the cause, origin and circumstances of fires.

The State Fire Marshal, his Deputies and Assistants, shall have such other powers and perform such other duties, as are set forth in other sections of this Act, and

as may be conferred and imposed from time to time by law.

SECTION 3. Deputies.—The State Fire Marshal shall appoint a First Deputy Fire Marshal, who shall receive an annual salary of.....dollars, and a Second Deputy Fire Marshal, who shall receive an annual salary of.....dollars, at least one of whom shall be an attorney-at-law. The State Fire Marshal shall also appoint a Secretary and such other clerks and assistants as shall be needed in the performance of the duties of his office, and shall fix their compensation. In case of the absence of the State Fire Marshal, or his inability from any cause to discharge the duties of his office, such duties shall devolve upon the First Deputy State Fire Marshal; and in case of the absence of the State Fire Marshal and the First Deputy State Fire Marshal, or their inability from any cause to discharge the duties and powers of their office, such duties and powers shall devolve upon the Second Deputy State Fire Marshal.

The State Fire Marshal, his Deputies, Assistants and other members of his department, in addition to their salaries, shall be paid their actual and necessary expenses incurred in the performance of their duties.

SECTION 4. Assistant Officers.—All municipal Fire Marshals in those municipalities having such officers, and, where no such officer exists, the Chief of the Fire Department of every incorporated city or village in which a Fire Department is established, the President or like senior officer of each incorporated village in which no Fire Department exists, and the Clerk of each organized town or township without the limits of any incorporated village or city, shall be, by virtue of such office so held by them, assistants to the State Fire Marshal and subject to the duties and obligations imposed by this Act, and shall

be subject to the directions of the State Fire Marshal in the execution of the provisions hereof.

Immediately upon taking office, the State Fire Marshal shall prepare instructions to the assistants designated herein and forms for their use in the reports required by this Act and cause them to be printed and sent, together with a copy of this Act, to each such officer located in this State.

SECTION 5. Duties of Local Assistants to the State Fire Marshal to Investigate the Cause and Origin of All Fires.—The assistants to the State Fire Marshal as defined in the preceding section shall investigate the cause, origin and circumstances of every fire occurring in any city, village, town or township in this State by which property has been destroyed or damaged, and, so far as it is possible, determine whether the fire was the result of carelessness or design. Such investigation shall be begun immediately upon the occurrence of such fire by the assistant in whose territory such fire has occurred, and if it appears to the officer making such investigation that such fire is of suspicious origin, the State Fire Marshal shall be immediately notified of such fact. Every fire occurring in this State shall be reported in writing to the State Fire Marshal within ten days after the occurrence of the same by the officer designated in section 4 of this Act in whose jurisdiction such fire has occurred; such report shall be in the form prescribed by the State Fire Marshal and shall contain a statement of all facts relating to the cause and origin of such fire that can be ascertained, the extent of damage thereof and the insurance upon such property, and such other information as may be required.

SECTION 6. Report of Insurance Companies.—Every fire insurance company authorized to transact business in this state is hereby required to report to the State Fire Marshal through the secretary or other officer of the

company designated by the board of directors for that purpose, all fire losses on property insured in any such company, giving the date of fire, the amount of probable loss, the character of property destroyed or damaged, and the supposed cause of the fire. Such report shall be mailed to the State Fire Marshal within three days after notice of loss is received by such company. Each company is hereby also required to report the amount of loss as adjusted on each fire after adjustment is made. Such report shall be in addition to and not in lieu of any report or reports such companies may be required to make by any law of this state to the Commissioner of Insurance or other state officer.

SECTION 7. Duties of the State Fire Marshal and Assistants to Inspect Property.—The State Fire Marshal shall make regulations for the keeping, storage, use, manufacture, sale, handling, transportation or other disposition of highly inflammable materials and rubbish, gun powder, dynamite, crude petroleum or any of its products, explosive or inflammable fluids or compounds, tablets, torpedoes or any explosives of a like nature, or any other explosives, including fireworks and fire crackers, and may prescribe the materials and construction of receptacles and buildings to be used for any of the said purposes. The State Fire Marshal, his Deputies or Assistants, upon the complaint of any person or whenever he or they shall deem it necessary, shall inspect all buildings and premises within their jurisdiction. Whenever any of said officers shall find any building or other structure which, for want of repairs, lack of or insufficient fire escapes, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, is especially liable to fire, and which is so situated as to endanger other property, and whenever such officer shall find in any building combustible or explosive matter or inflammable conditions dangerous to the safety of such build-

ings, he or they shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings. If such order is made by any Deputy or Assistant to the State Fire Marshal, such owner or occupant may, within twenty-four hours, appeal to the State Fire Marshal, who shall, within ten days, review such order and file his decision thereon, and unless by his authority the order is revoked or modified it shall remain in full force and be complied with within the time fixed in said order or decision of the State Fire Marshal. Provided, however, that any such owner or occupant, who feels himself aggrieved by any such order, or affirmed order, may within five days after the making or affirming of any such order by the State Fire Marshal, file his petition with the county court of the proper county, praying a review of such order and it shall be the duty of such court to hear the same at the first convenient day, and to make such order in the premises as right and justice may require, and such decision shall be final.

Such parties so appealing to the county court shall file with said court within two days a bond in an amount to be fixed by the court, in no case less than One Hundred Dollars with at least two sufficient sureties, to be approved by the court, conditioned to pay all the costs on such appeal in case such appellant fails to sustain his appeal or the same be dismissed for any cause.

If any person fail to comply with the order of any officer under this section, or with the order as modified on appeals herein provided, and within the time fixed, then such officer is hereby empowered and authorized to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of such person, and if such person, within thirty days thereafter, fail, neglect or refuse to repay said officer the expense thereby incurred by him, such officer shall certify said expenses, together with twenty-five per

centum penalty thereon to the clerk of the city, village or town in which said property is situated, and said city, village or town clerk shall enter said expenses on the tax roll of said city, village or town, as a special tax against the real estate on which said building is or was situated, and the same shall be collected as other taxes and when collected shall, together with the penalty thereon, be refunded to such officer.

Any owner or occupant failing to comply with such order within thirty days after said appeal shall have been determined, or, if no appeal is taken, then within thirty days after the service of the said order, or within the time fixed in said order, shall be liable to a penalty of not less than Ten Dollars nor more than Fifty Dollars for each day's neglect thereafter. The service of any such order shall be made upon the occupant of the premises to whom it is directed by either delivering a true copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises, or by mailing such copy to the occupant's last known post office address; whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a true copy of the said order, or, if such owner is absent from the jurisdiction of the officer making the order, by mailing such copy to the owner's last known post-office address.

The penalty herein provided may be recovered in an action brought in any court of the county where such property is located, in the name of the State, under the direction of the State Fire Marshal or any of his Deputies or Assistants herein designated, by the legally constituted law officer of the city, village, town, township or county, where such property is located or by an attorney specially designated therefor by the Attorney-General.

SECTION 8. Powers of State Fire Marshal, Deputies and Assistants.—The State Fire Marshal or his Deputies may, in addition to the investigation made by any of his Assistants, at any time investigate as to the origin or circumstances of any fire occurring in this State. The State Fire Marshal, his Deputies and Assistants shall have the power to summon witnesses and compel them to attend before them, or either of them, and to testify in relation to any matter which is by the provisions of this Act a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent or necessary to the inquiry, and shall have the power to administer oaths and affirmations to any person appearing as a witness before them, and false swearing in any matter aforesaid shall be deemed perjury and prosecuted as such. Such examination may be public or private, as the officers conducting the investigation may determine, and persons other than those required to be present may be excluded from the place where such examination is held and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

If, after such examination of witnesses or any investigation, the State Fire Marshal or any of his Deputies or Assistants is of the opinion that the facts in relation to such fire indicate that a crime has been committed, he shall present the testimony taken on such examination, together with any other data in his possession, to the District Attorney of the proper county, with the request that he institute such criminal proceedings as such testimony or data may warrant, and it shall be the duty of the attorney in the State Fire Marshal's Department to assist in the taking of testimony and cross-examination of witnesses, and to aid and assist District Attorneys in the prosecution of all arson cases in all the courts of the State.

The State Fire Marshal or his Deputies or any of his Assistants may at all reasonable hours enter any building or premises within his jurisdiction for the purpose of making an inspection or investigation which, under the provisions of this Act, he or they may deem necessary to be made.

Each person summoned and testifying before the State Fire Marshal, his Deputies or Assistants, shall receive from the State Treasurer, on the certificate of the State Fire Marshal, and upon audit of the proper auditing officer of the State, for witness fees and mileage, such sum or sums as provided for witnesses testifying in the circuit courts of this State, and officers serving subpoena and rendering other services to the State Fire Marshal, shall be paid in like manner, and in amounts they would be entitled to for like service in such courts.

SECTION 9. Records.—The State Fire Marshal shall keep in his office a record of all fires occurring in this State and of all the facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance and, if so, in what amount. Such record shall be made daily from the reports made to him by his Assistants under the provisions of this article. All such records shall be public, except any testimony taken in an investigation under the provisions of this Act which the State Fire Marshal in his discretion may withhold from the public.

SECTION 10. Annual Report.—The State Fire Marshal shall annually, on or before the fifteenth day of February, transmit to the Governor a full report of his proceedings under this Act and such statistics as he may wish to include therein, unless some other time for reporting is fixed by law; he shall also recommend any amendments to the law which in his judgment shall be desirable.

SECTION 11. Witnesses.—Any witness who refuses to obey a summons of the State Fire Marshal, his Deputies or Assistants, or who refuses to be sworn or to testify, or who disobeys any lawful order of the State Fire Marshal, his Deputies or Assistants in relation to any investigation instituted by him or them, or who fails or refuses to produce any book, paper or document touching any matter under investigation or examination, or who is guilty of any contemptuous act after being summoned to appear before him, or either of them, to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be punished as for contempt of court. For this purpose application may be made to the county court within whose jurisdiction the contempt in question took place, and for which purpose, the county courts of this State are hereby given jurisdiction.

SECTION 12. Duties of District Attorney.—The District Attorney of any county, upon request of the State Fire Marshal, his Deputies or Assistants, shall assist such officers upon an investigation of any fire which, in their opinion, is of suspicious origin.

SECTION 13. Compensation of Assistants.—Except in cities having over ..... thousand inhabitants, all local Assistants of the State Fire Marshal not receiving a salary from the State of ..... shall receive, upon the audit of the State Fire Marshal, fifty cents for each report of each separate fire reported to the State Fire Marshal under the provisions of this Act, and in addition there shall be paid to the Chiefs of the Fire Departments, or to the President or like senior officer of each incorporated village in which no paid Fire Department exists, or to the Town Clerk of each organized town or township without the limits of an incorporated village or city, whose duty it shall have been to make and who actually made the investigation, the sum of fifteen

cents for each mile traveled to the place of fire, and, in the discretion of the State Fire Marshal, where an investigation has been had a sum not to exceed two dollars for each day's service spent in such investigation.

SECTION 14. Fire Drills.—It shall be the duty of the State Fire Marshal, his deputies and assistants to require teachers of public and private schools and educational institutions to have one fire-drill each month and to keep all doors and exits unlocked during school hours.

SECTION 15. Penalty for Neglect of Official Duty.—Any officer referred to in this Act who neglects to comply with any of the requirements hereof shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars, nor more than One Hundred Dollars, for each neglect or violation and in default of the payment thereof shall be imprisoned not to exceed thirty days.

SECTION 16. Penalties.—All penalties, fees or forfeitures collected under the provisions of this Act shall be paid into the treasury of the State for the benefit of the State Fire Marshal fund.

SECTION 17. Construction.—It is hereby declared that this Act is necessary for the public safety, health, peace and welfare, is remedial in nature, and shall be construed liberally, and this Act shall not be declared unconstitutional and void for the reason that any section or provision thereof may be in contravention of the constitution.

SECTION 18. Repeals.—All Acts or parts of Acts in conflict with any of the provisions of this Act are hereby repealed.

SECTION 19. Enabling Clause.—This Act shall take effect and be in force from and after its passage and publication.

(NOTE: The section given below can be incorporated into the above bill, unless the state law requires appropriation bills to be separate, in which case a separate appropriation bill should be drawn and introduced.)

SECTION ..... Appropriation.—There is hereby appropriated from the general fund of this State, out of any money in the State Treasury, not otherwise appropriated, the sum of ..... dollars, for the organization, maintenance and support of the State Fire Marshal's department.

NEH # 23929

END OF
TITLE